
HOUSE BILL No. 1718

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-26.

Synopsis: Sales tax increment financing. Authorizes Warrick County to establish an economic development project district. Provides that the Indiana economic development corporation performs the duties of the state board of finance when establishing an economic development project district for the county. Increases the maximum term of bonds and leases for an economic development district from 20 to 25 years.

Effective: July 1, 2009.

Stilwell, Avery

January 22, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1718

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-26-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies
3 to the following:

4 (1) A city having a population of more than seventy-five thousand
5 (75,000) but less than ninety thousand (90,000).

6 (2) A city having a population of more than one hundred five
7 thousand (105,000) but less than one hundred twenty thousand
8 (120,000).

9 (3) A city having a population of more than one hundred fifty
10 thousand (150,000) but less than five hundred thousand
11 (500,000).

12 (4) A city having a population of more than one hundred twenty
13 thousand (120,000) but less than one hundred fifty thousand
14 (150,000).

15 **(5) Warrick County.**

16 SECTION 2. IC 36-7-26-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Present economic



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conditions in certain areas of certain cities are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

(c) Economic development of certain reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164 is vital for a county described in section 1(5) of this chapter.

~~(c)~~ **(d)** Encouraging economic development in these areas will:

(1) attract new businesses and encourage existing business to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

~~(d)~~ **(e)** Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.

~~(e)~~ **(f)** Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

~~(f)~~ **(g)** This chapter shall be liberally construed to carry out the purposes of this chapter and to provide **the county and** cities with maximum flexibility to accomplish those purposes.

SECTION 3. IC 36-7-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "adjustment factor" means the amount, stated as a percentage, that the:

(1) board, for a city described in section 1(1), 1(2), 1(3), or 1(4) of this chapter; or

(2) corporation, for a county described in section 1(5) of this chapter;

determines under section 22 of this chapter should be applied in determining the district's net increment. However, the adjustment factor may not exceed eighty percent (80%).

SECTION 4. IC 36-7-26-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. As used in this chapter, "corporation" refers to the Indiana economic development corporation.**

SECTION 5. IC 36-7-26-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. In addition to the powers and duties set forth in any other statute, a commission, the

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department, **the corporation**, and the board have the powers and duties set forth in this chapter.

SECTION 6. IC 36-7-26-14, AS AMENDED BY P.L.185-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Whenever a commission determines that the redevelopment and economic development of an area situated within the commission's jurisdiction may require the establishment of a district, the commission shall cause to be assembled data sufficient to make the determinations required under section 15 of this chapter, including the following:

(1) Maps and plats showing the boundaries of the proposed district.

(2) A complete list of street names and the range of street numbers of each street situated in the proposed district.

(3) A plan for the redevelopment and economic development of the proposed district. The plan must describe the local public improvements necessary or appropriate for the redevelopment or economic development.

(b) For a city described in section 1(2) or 1(3) of this chapter, the proposed district must contain a commercial retail facility with at least five hundred thousand (500,000) square feet, and any distributions from the fund must be used in the area described in subsection (a) or in areas that directly benefit the area described in subsection (a).

(c) For a city described in section 1(4) of this chapter, the proposed district may not contain any territory outside the boundaries of a redevelopment project area established within the central business district of the city before 1985.

(d) For a county described in section 1(5) of this chapter, the proposed district must be located completely or in part on reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164. However, the proposed district must be at least one hundred (100) yards away from the boundaries of the Blue Grass Fish and Wildlife Area.

SECTION 7. IC 36-7-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) **This subsection does not apply to a county described in section 1(5) of this chapter.** Upon adoption of a resolution designating a district under section 15 of this chapter, the commission shall submit the resolution to the board for approval. In submitting the resolution to the board, the commission shall deliver to the board:

(1) the data required under section 14 of this chapter;

(2) the information concerning the proposed redevelopment and

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economic development of the proposed district; and
 (3) the proposed utilization of the revenues to be received under
 section 23 of this chapter.

This information may be modified from time to time after the initial
 submission. The commission shall provide to the board any additional
 information that the board may request from time to time.

**(b) This subsection applies only to a county described in section
 1(5) of this chapter. Upon adoption of a resolution designating a
 district under section 15 of this chapter, the commission shall
 submit the resolution to the fiscal body and the county
 commissioners of the county for ratification and then shall submit
 the resolution to the corporation for approval. In submitting the
 resolution to the corporation, the commission shall deliver to the
 corporation:**

- (1) the data required under section 14 of this chapter;**
- (2) the information concerning the proposed redevelopment
 and economic development of the proposed district; and**
- (3) the proposed use of the revenues to be received under
 section 23 of this chapter.**

**This information may be modified periodically after the initial
 submission. The commission shall provide to the corporation any
 additional information that the corporation requests.**

~~(b)~~ (c) Upon adoption of a resolution designating a district under
 section 15 of this chapter, and upon approval of the resolution by the
 board under subsection (a) **or the corporation under subsection (b)**,
 the commission shall publish (in accordance with IC 5-3-1) notice of
 the adoption and ~~purpose~~ **purpose** of the resolution and of the hearing
 to be held. The notice must provide a general description of the
 boundaries of the district and state that information concerning the
 district can be inspected at the commission's office. The notice must
 also contain a date when the commission will hold a hearing to receive
 and hear remonstrances and other testimony from persons interested in
 or affected by the establishment of the district. All affected persons,
 including all persons or entities owning property or doing business in
 the district, shall be considered notified of the pendency of the hearing
 and of subsequent acts, hearings, adjournments, and resolutions of the
 commission by the notice given under this section.

SECTION 8. IC 36-7-26-20 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. **(a) This subsection
 does not apply to a county described in section 1(5) of this chapter.**
 The determination of the commission to create a district under this
 chapter, after approval by the board, must be approved by ordinance of

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the legislative body of the city.

(b) This subsection applies only to a county described in section 1(5) of this chapter. The determination of the commission to create a district under this chapter, after approval by the corporation, must be approved by ordinance of the fiscal body of the county.

SECTION 9. IC 36-7-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. **(a) This subsection does not apply to a county described in section 1(5) of this chapter.** After the approval of the creation of the district under section 20 of this chapter, the commission shall transmit to the board for delivery to the department the following:

(1) A certified copy of the resolution designating the district, as confirmed by the commission.

(2) A complete list of street names and the range of street numbers of each street situated within the district.

(b) This subsection applies only to a county described in section 1(5) of this chapter. After the approval of the creation of the district under section 20 of this chapter, the commission shall transmit to the corporation for delivery to the department the following:

(1) A certified copy of the resolution designating the district, as confirmed by the commission.

(2) A complete list of street names and the range of street numbers of each street located within the district.

SECTION 10. IC 36-7-26-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a) This subsection does not apply to a county described in section 1(5) of this chapter.** Within sixty (60) days after receipt from the commission of the information transmitted under section 21 of this chapter, the board shall do the following:

(1) Request that the department determine the base period amount. The department shall certify the base period amount to the board, and the board shall transmit the certification to the commission.

(2) Determine the adjustment factor. The adjustment factor must account for the portion of the incremental state gross retail and use tax revenues attributable to investment in the district and resulting from the redevelopment and economic development project. The adjustment factor may not be decreased after the factor is determined by the board.

(b) This subsection applies only to a county described in section 1(5) of this chapter. Within sixty (60) days after receipt from the

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commission of the information transmitted under section 21 of this chapter, the corporation shall do the following:

(1) Request that the department determine the base period amount. The department shall certify the base period amount to the corporation, and the corporation shall transmit the certification to the commission.

(2) Determine the adjustment factor. The adjustment factor must account for the part of the incremental state gross retail and use tax revenues attributable to investment in the district and resulting from the redevelopment and economic development project. The adjustment factor may not be decreased after the factor is determined by the corporation.

~~(b)~~ (c) If a business that operates or did operate in the district also has or had one (1) or more other places of business operating in Indiana but outside the district, the business shall, in the manner and for the periods of time requested by the department, certify to the department the amount of taxes remitted by the business under IC 6-2.5 for the business's places of operation that are or were in the district.

SECTION 11. IC 36-7-26-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) Before the first business day in October of each year, the board, **or the corporation for a county described in section 1(5) of this chapter**, shall require the department to calculate the net increment for the preceding state fiscal year. The department shall transmit to the board, **or the corporation for a county described in section 1(5) of this chapter**, a statement as to the net increment in sufficient time to permit the board **or the corporation** to review the calculation and permit the transfers required by this section to be made on a timely basis.

(b) There is established a sales tax increment financing fund to be administered by the treasurer of state. The fund is comprised of two (2) accounts called the net increment account and the credit account.

(c) On the first business day in October of each year, that portion of the net increment calculated under subsection (a) that is needed:

(1) to pay debt service on the bonds issued under section 24 of this chapter or to pay lease rentals under section 24 of this chapter; and

(2) to establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission;

shall be transferred to and deposited in the fund and credited to the net increment account. Money credited to the net increment account is pledged to the purposes described in subdivisions (1) and (2), subject

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to the other provisions of this chapter.

(d) On the first business day of October in each year, the remainder of:

- (1) eighty percent (80%) of the gross increment; minus
- (2) the amount credited to the net increment account on the same date;

shall be transferred and credited to the credit account.

(e) The remainder of:

- (1) the gross increment; minus
- (2) the amounts credited to the net increment account and the credit account;

shall be deposited by the auditor of state as other gross retail and use taxes are deposited.

(f) A city described in section 1(2), 1(3), or 1(4) of this chapter may receive not more than fifty percent (50%) of the net increment each year. During the time a district exists in a city described in section 1(3) or 1(4) of this chapter, not more than a total of one million dollars (\$1,000,000) of net increment may be paid to the city described in section 1(3) or 1(4) of this chapter. During each year that a district exists in a city described in section 1(2) of this chapter, not more than one million dollars (\$1,000,000) of net increment may be paid to the city described in section 1(2) of this chapter.

(g) The auditor of state shall disburse all money in the fund that is credited to the net increment account to the commission in equal semiannual installments on November 30 and May 31 of each year.

SECTION 12. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed ~~twenty (20)~~ **twenty-five (25)** years, nor may the term of any lease agreement entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)** years. The commission shall transmit to the board, **or the corporation for a county described in section 1(5) of this chapter**, a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the

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1 treasurer of state the money disbursed from the fund that is credited to
 2 the net increment account that exceeds the amount needed to pay debt
 3 service or lease rentals and to establish and maintain a debt service
 4 reserve under this chapter in the prior year and before May 31 of that
 5 year. Amounts remitted under this subsection shall be deposited by the
 6 auditor of state as other gross retail and use taxes are deposited.

7 (c) The commission in a city described in section 1(2) of this
 8 chapter may distribute money from the fund only for the following:

9 (1) Road, interchange, and right-of-way improvements.

10 (2) Acquisition costs of a commercial retail facility and for real
 11 property acquisition costs in furtherance of the road, interchange,
 12 and right-of-way improvements.

13 (3) Demolition of commercial property and any related expenses
 14 incurred before or after the demolition of the commercial
 15 property.

16 (4) For physical improvements or alterations of property that
 17 enhance the commercial viability of the district.

18 (d) The commission in a city described in section 1(3) of this
 19 chapter may distribute money from the fund only for the following
 20 purposes:

21 (1) For road, interchange, and right-of-way improvements and for
 22 real property acquisition costs in furtherance of the road,
 23 interchange, and right-of-way improvements.

24 (2) For the demolition of commercial property and any related
 25 expenses incurred before or after the demolition of the
 26 commercial property.

27 (e) The commission in a city described in section 1(4) of this
 28 chapter may distribute money from the fund only for the following
 29 purposes:

30 (1) For:

31 (A) the acquisition, demolition, and renovation of property;
 32 and

33 (B) site preparation and financing;
 34 related to the development of housing in the district.

35 (2) For physical improvements or alterations of property that
 36 enhance the commercial viability of the district.

37 **(f) The commission in a county described in section 1(5) of this**
 38 **chapter may distribute money from the fund for the following**
 39 **district project costs associated with the development or**
 40 **redevelopment of the district:**

41 **(1) The total cost of acquisition of all land, rights-of-way, and**
 42 **other property to be acquired, developed, or redeveloped for**

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the project.

(2) Site preparation, including utilities and infrastructure.

(3) Costs associated with the construction or establishment of a museum and education complex that is owned or leased by an entity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) Road, interchange, and right-of-way improvements.

(5) Public parking facilities.

(6) All reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development or redevelopment of the property or the issuance of bonds.

(7) Debt service, lease payments, capitalized interest, or debt service reserve for the bonds to the extent the commission determines that a reserve is reasonably required.

SECTION 13. IC 36-7-26-25, AS AMENDED BY P.L.146-2008, SECTION 769, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. **(a) This section does not apply to a county described in section 1(5) of this chapter.**

(b) The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

SECTION 14. IC 36-7-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 26. **(a) This subsection does not apply to a county described in section 1(5) of this chapter.** To the extent prescribed by the board, and subject to the terms and conditions established by the board, any money credited to the credit account may be used by the commission, and, if desired by the board, irrevocably pledged by the board, to further secure bonds or a lease agreement issued or entered into under this chapter. Further security includes the following:

(1) Holding money in the credit account and pledging sums to payment of debt service on bonds issued under or lease rentals payable under this chapter, or maintenance of debt service

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reserves.

(2) Transferring money from the credit account to the net increment account or, if desired by the board, to the commission to enable the commission to finance local public improvements.

(3) Payment of bond insurance premiums or other credit enhancement fees and expenses.

(b) This subsection applies only to a county described in section 1(5) of this chapter. To the extent prescribed by the corporation, and subject to the terms and conditions established by the corporation, any money credited to the credit account may be used by the commission and, if desired by the corporation, irrevocably pledged by the corporation to further secure bonds or a lease agreement issued or entered into under this chapter. Further security includes the following:

(1) Holding money in the credit account and pledging sums to payment of debt service on bonds issued under or lease rentals payable under this chapter, or maintenance of debt service reserves.

(2) Transferring money from the credit account to the net increment account or, if desired by the corporation, to the commission to enable the commission to finance local public improvements.

(3) Payment of bond insurance premiums or other credit enhancement fees and expenses.

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